

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of )  
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NORTHEAST COLORADO )  
BROADCASTING, LLC )  
FM Broadcast Station KRFD, Fleming, )  
Colorado, Facility ID Number 170959 )

To: The Chief, Media Bureau  
Via: ECFS Electronic Filing

**EMERGENCY REQUEST FOR EXTENSION OF STATION LICENSE  
PURSUANT TO 47 U.S.C. §312(g)**

Now comes Northeast Colorado Broadcasting, LLC (NCB), the licensee of FM Broadcast Station KRFD, licensed to Fleming, Colorado, Facility ID Number 170959, respectfully requesting on an emergency basis an extension of the station license of KRFD, which currently stands to lapse pursuant to 47 U.S.C. §312(g) on May 2, 2020. It is submitted that the circumstances that have resulted in KRFD being silent since May 2, 2019 are beyond the control of NCB and that this situation will appertain for an additional period of approximately six months before the Station can be returned to the air. As good cause for this emergency request, NCB states as follows:

1. NCB is a small broadcasting company headquartered in Fort Morgan, Colorado, the sole principals of which are a husband and wife. NCB acquired KRFD (then KSIK) at the end of 2014. Fleming, Colorado, the community of license, is in a rural area of Colorado. *There are no other broadcast stations licensed to Fleming, Colorado.* The station's transmitter building and station equipment was destroyed in a storm in May of 2019, and the station was taken silent on May 2, 2019. The licensee

applied for Special Temporary Authority to remain silent pending repairs, which was granted. See, BLSTA - 20190503AAQ. This STA was extended pursuant to an application filed by the licensee in October of 2019. See, BLESTA - 20191030AAH. In that application to extend the silent STA, the licensee stated as follows: “Licensee is ready, willing and able to resume operations when the tower site building is repaired and is safe and suitable. Tower site owner has been delayed in accomplishing the necessary storm damage repairs. If repairs are not completed in the reasonably near future licensee will take steps to relocate to a different site.”

2. KRFD occupies leased space on a tower and transmitter building near Sterling, Colorado. The tower and transmitter building is owned by an out-of-town tower company. Since the severe storm damage to the transmitter building, NCB has been ready, willing and able (and eager) to put KRFD back on the air since that date, but has been unable to do so because the tower company has not made necessary repairs. NCB continued to pay rent for the tower and building space, relying on the assurances of the site owner that it would make necessary repairs. It also continues to pay for electricity to the site. The site owner did in fact hire a local contractor to begin repairs; some work was started, but very little work was done before being discontinued for reasons unknown to NCB and the site remains unusable to date. The tower company nevertheless made further, repeated assurances that the facilities would be repaired and made usable for KRFD. With the continued passage of time and with those assurances apparently not being carried out, NCB began taking steps to identify other options to return KRFD to the air at a different transmitter site. The consulting engineer for NCB identified an area in which a substitute transmitter site could provide community of license coverage, but

there are few opportunities to secure any replacement site. Initial progress was being made nevertheless, and NCB was confident that all necessary steps to relocate KRFD would have been completed by late this month, had the COVID-19 emergency not intervened.

3. The Commission is, of course, well aware of the significant challenges that the COVID-19 pandemic has thrust upon broadcasters and everyone else. In the service area of KRFD, significant concerns began to affect everyone, including NCB, during the first week of March. Crisis mode began the second week of March with broadcasters in the area putting in 100-hour weeks to handle the many facets of the crisis and to keep the communities informed. Even if there had been time to tend to the increasingly urgent matter of the approaching deadline to return KRFD to the air, technical assistance became scarce, if not completely unavailable. On-site workers such as construction or tower crews became completely unavailable. Even obtaining advice and assistance from legal and engineering professionals relative to the relocation of KRFD, and in preparing this request have been significantly delayed because of the exigencies of this unprecedented and unpredictable national crisis.

4. In 1996, Congress passed § 403 of the Telecommunications Act of 1996, Pub. L. No. 104-2104, 110 Stat. 56 (“the Telecommunications Act”), which amended the Communications Act of 1934, 47 U.S.C. § 151 *et seq.* (“the Act”). Section 403, as enacted in 1996, added a new subpart (g) to § 312 of the Act, providing in relevant part:

If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary.

47 U.S.C. § 312(g) (1996).

In 2004, Congress added the following language to the provision, with the obvious intention of enabling the Commission to avoid draconian results in individual cases where equity and fairness would justify or mandate variation from the 365-day forfeiture provision of Section 312 :

...except that the Commission may extend or reinstate such station license if the holder of the station license prevails in an administrative or judicial appeal, the applicable law changes, or for any other reason to promote equity and fairness.

47 U.S.C. § 312(g) (2004).

5. Due to the foregoing, unique and unforeseeable circumstances, including (1) the reasonable reliance of NCB on repeated assurances of the site owner that the leased transmitter site facilities would be restored and useful for KRFD; (2) the difficulty in finding a replacement transmitter site for KRFD due to the limited area in which such could be located due to community coverage obligations of NCB; and (3) the intervention of the COVID-19 pandemic which has, to date, and for two months made any effort to relocate an FM transmitter facility literally impossible, it is respectfully submitted that, in order to promote equity and fairness, the 12-month deadline in 47 U.S.C. §312(g) as it would apply to KRFD should be extended for at least six months.<sup>1</sup> KRFD is a first transmission service for Fleming, Colorado and is to date the only broadcast station in any service licensed to Fleming. Section 307(b) of the Communications Act of 1934 would also suggest that the Commission should maintain KRFD in the course of its

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<sup>1</sup> At this time, NCB believes that a six-month extension should be sufficient to complete the steps necessary to return KRFD to the air. However, as of this writing, restrictions are still in place and it is unknown and uncertain when commerce and construction will be able to resume in Colorado. Technical, construction, and possibly financial, issues could be or become factors in the coming months.

obligation to provide a fair and equitable distribution of radio service among the several states and communities.

6. Upon favorable action on the instant request, NCB will immediately file a request to extend the current STA for six months, in order to permit either the return of KRFD to the air at the existing site or to locate a replacement site and file an application to move to that new site. There is no party that is adversely affected by this request. NCB fully understands and appreciates the public policy reasons for the deadline and the goal of making good use of the allocated spectrum to serve the public interest. It is the strong desire of NCB to be able to resume its service to the community of Fleming, Colorado as soon as possible.

Therefore, the foregoing considered, Northeast Colorado Broadcasting, LLC respectfully requests that the Commission grant the foregoing emergency request and extend the period within which KRFD can be returned to the air for a period not less than six months from May 2, 2020.

Respectfully submitted,

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